MONTANA LEGISLATIVE HISTORY

Chapter 8 19 94

Bill H 22 S _____ Original bill & history ____C

H. Committee on 1993 State Administration			S. Committee on State Administration 1993		
Hearing Date(s)	Jan 06	✓C	Hearing Date(s)	Feb 21	✓C
	Jan 09	✓C		_____	____C
	_____	____C		_____	____C
	_____	____C		_____	____C
Date Out	Jan 09	✓C		Feb 21	✓C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

S. Committee on State Administration

Jan 23, 1994 ✓C

There are no 1994 House minutes.

STATE ADMINISTRATION COMMITTEE

January 6, 1973

The second meeting of the State Administration Committee was called to order this date at 10:30 a.m. with Chairman Brand presiding. All members were present with the exception of Representatives Flynn, Menahan, Towe, and Ulmer.

The following bills were before the committee for consideration:

HB #6 Representative Ainsworth gave a brief summary on behalf of this bill. Rep. Ainsworth introduced Mr. Mike Meloy, a member of the Legislative Council, who in turn also spoke on behalf of HB #6. There were no opponents.

Rep. Burnett moved to delay the action of this bill until next week. Rep. Greely made a substitue motion that action on this bill be delayed and a subcommittee be appointed to check into this bill further. Rep. Burnett withdrew his motion and seconded Rep. Greely's. Roll call vote showed the motion passed unanimously.

HB #13 Proponents for this bill were Rep. Sheldon and Rep. Lucas. They gave a brief summary of this bill. There were no opponents and no questions.

HB #18 Consideration of HB 18 was delayed until Tuesday, January 9. Rep. Haines has people from Missoula coming to testify at that time.

HB #22 Rep. Ainsworth summarized HB 22. He wished to amend this bill on page 1, section 1, line 18, by deleting the words "the department of state lands" and inserting in lieu thereof the words "board of land commissioners" and further amend page 2, section 1, line 15, by deleting the word "department" and inserting in lieu thereof the word "board". There were no opponents.

HB #30 Rep. James Lucas spoke on behalf of this bill. He wished to amend HB 30 on page 3, section 4, line 25 by inserting after the word "compensation" the words "including salaries and expenses". There were no opponents.

HB #48 Mr. Mike Meloy, a proponent, gave a summary on this bill. There were no opponents.

After consideration of the above bills, the following actions were taken:

HB #6 Chairman Brand appointed a subcommittee consisting of Representatives Burnett, Greely, and Hageman, to review this bill.

HB #13 Rep. Burnett moved this bill DO PASS. Rep. Greely seconded the motion. Roll call vote revealed an unanimous DO PASS.

HB #22 Rep. Bardanouve moved that HB 22 pass for a day. Rep. Greely seconded the motion and it passed unanimously.

HB #30 Rep. Greely moved this bill DO PASS. Rep. Gunderson seconded the motion. Rep. Greely withdrew his motion and Rep. Gunderson withdrew his second. Rep. Bardanouve so moved to amend HB 30 on page 3, section 4, line 25, by inserting after the word "compensation" the words "including salaries and expenses". The motion was seconded by Rep. Hageman. This motion passed unanimously. Rep. Hodges moved HB 30 as amended DO PASS. Rep. Burnett seconded the motion and it passed unanimously.

HB #48 Rep. Gunderson moved that HB 48 DO PASS. Rep. Greely seconded the motion and it passed unanimously.

HB #22 Rep. Gunderson was appointed by Chairman Brand to look into Rep. Ainsworth's suggestion of amending this bill. Rep. Gunderson is to report his findings to the committee on Tuesday, January 9.

HB #30 Rep. Greely moved to reconsider HB 30. Rep. Bardanouve seconded the motion and it passed unanimously. Rep. Greely then moved that HB 30 be amended on page 2, section 2, subsection (2), line 11, after the word "compensation", by inserting the words "including salaries and expenses", and as so amended DO PASS. Rep. Burnett seconded the motion and it was passed unanimously

Chairman Brand announced that the bills to be considered at the next meeting are: HB #6, HB #18, HB #22, HB #64, HB #69, and House Resolution #2.

STATE ADMINISTRATION COMMITTEE

January 9, 1973

The State Administration Committee meeting was called to order this date at 10:30 a.m. with Chairman Brand presiding. All members were present.

The following bills were before the committee for consideration:

HB 18...Mr. Jim Howeth, representing the Board of Investments, gave a brief summary of this bill. He proposed the attached amendments. Mr. Wesley Wertz, representing the Montana Education Association and the Montana Bankers Association, spoke against this bill. His chief objection was concerning the retirement funds investments in stock. He also felt that on page 17, section d, line 4, "retirement funds to exceed 60%" should be 20%. Mr. Dee Cooper, representative of M.E.A., supported Mr. Wertz comments, and suggested deletion of page 16, section (iii), line 19, in its entirety. He, too, wished to amend this bill on page 17, line 3, to read 20% instead of 60%. Other opponents were Rep. Haines; Mr. Ralph Hay, superintendent of Public Instruction; and Mr. Tom Schneider, who represented the Montana Public Employees Association. Mr. Schneider's position statement is attached. Mr. Doyle Saxby, Director of the Department of Administration, and Rep. Bardanouve supported this bill.

HB 6...Rep. Greely moved to postpone the hearing on HB 6. Rep. Towe seconded the motion and it passed unanimously.

HB 22...Rep. Ainsworth gave a brief summary on this bill. He then introduced Mr. Robert Person, a representative of the constitution implementation subcommittee for Rep. Ainsworth, who further presented HB 22 to the committee.

The committee took the following actions on the discussed bills:

HB 22...Rep. Gunderson moved that HB 22 be amended on page 1 starting with section 1 on line 15 after the word "classification--", thru and including line 3 on page 3 by striking all the material contained therein and inserting in lieu thereof the following new material: "The lands of the state of Montana shall be classified by the board of land commissioners pursuant to its powers and duties as provided in section 81-103." Rep. Greely moved HB 22 as amended DO PASS. Rep. Gunderson seconded the motion and it passed unanimously.

HOUSE BILL NO. 130: The State Fire Marshall was present in support of House Bill 130. Mr. William Pentilla stated that he had seven acting fire marshalls on call in various parts of the state which he could call upon in case of an emergency. He also said that he felt his present budget would be able to adequately take care of the added expense this bill would incur.

HOUSE BILL NO. 22: Representative Ainsworth, District 18 from Missoula, stated that this bill was one which the legislative council subcommittee had suggested to implement the 1972 Montana Constitution. The Constitution states that lands shall be classified by the Board of Land Commissioners.

Representative Ainsworth stated that all the stricken material had been deleted by the House State Administration Committee. Ted Schwinden, Commissioner of State Lands, was present to answer questions pertaining to this bill.

Senator Devine made a motion that the committee recommend House Bill 22 BE CONCURRED IN. It was seconded by Senator Bennett, and carried unanimously.

HB 18: Senator Darrow made a motion that the committee amend House Bill 18 on page 11, section 5, subsection (5) at the beginning of line 19 by striking the word "~~LEGISLATOR~~" and inserting in lieu thereof the word "LEGISLATURE". The motion was seconded by Senator Devine, and carried.

Senator Devine then made a motion that the committee recommend House Bill 18 BE CONCURRED IN AS AMENDED. It was seconded by Senator Darrow, and carried unanimously. Chairman James appointed Senator Devine to carry House Bills 18 and 22 through the Senate.

HB 130: There was further discussion on House Bill 130 by the committee members. Senator Bennett made a motion that the committee recommend House Bill 130 BE CONCURRED IN. It was seconded by Senator Nees, and carried unanimously. Chairman James appointed Senator Sorenson to carry House Bill 130 through the Senate.

HB 170: Senator Bennett made a motion that the committee recommend House Bill 170 BE CONCURRED IN. The motion was seconded by Senator Sorenson, and carried unanimously. Chairman James appointed Senator Bennett to carry this bill through the Senate.

HB 64: After further discussion on House Bill 64, the committee decided to sit on the bill until they found out the status of House Bill 451, which was almost exactly like House Bill 64.

The meeting was adjourned at 10:05 a.m.

James

JAMES

under the same category, and that perhaps their name should be changed to the Department of Recreation and Parks.

Senator Devine stated he understands there is another bill in the House which was introduced by Representative Harrison Fagg. This bill would take the parks department away from the Fish and Game. A vote was taken on the motion that Senate Bill 494 DO NOT PASS, and the motion carried.

SENATE BILL NO. 240: "An act establishing a Sheriffs' Retirement System."

Chairman James stated that, although this bill had been posted for hearing this date, he had been asked by Sheriff Bolger to hold it over until Monday, January 28. However, he stated that if there was anyone present who would like to testify on this bill today, it would be fine.

Mr. Tom Schneider, Executive Director MPEA, said he would not be able to attend the meeting next Monday, and that he wants to go on record supporting Senate Bill 240. He said he does not strongly like the idea of continuously having new retirement systems, but he really thinks we could use a separate system for the law enforcement officials. He further stated that it might be ten years before we agree upon a consolidated retirement system, and doesn't think these people should be set by the wayside until this comes about since there are some who hope to retire this year. Mr. Schneider said he had agreed to support this bill as the sheriffs had agreed to support consolidation in the future.

Mr. Joe A. DeLong, Flathead County Commissioner, stated that the Montana Association of Counties, of which he is Vice President, wishes to go on record in opposition to this bill. He said this would be an added expense to county government, and doesn't think the deputy sheriffs need this extra compensation for the demands of their job.

HOUSE BILL NO. 22: "An act providing for the manner in which land is to be classified."

Representative Ainsworth, District 18, explained that this bill was intended to implement Article X, Section 11 of the 1972 Montana Constitution. He said that last year HB 22 was voted out of this committee with a unanimous DO PASS recommendation, but that the Senate had rejected it. They wanted the criteria spelled out so that they would know what guidelines would be used in the classification of lands. He further stated that Mr. Ted Schwinden was present to explain some amendments which had been worked out in accordance with the objections of the Senate.

Mr. Ted Schwinden, Commissioner of State Lands, said that the original House Bill 22 was underdone. He explained that the new Constitution drops land classification, and states that lands shall be classified by the Land Commission in a manner provided by law. Mr. Schwinden presented a copy of written testimony to each member of the Committee, which also contained his proposed amendments. Questions and a lengthy discussion followed this presentation.

Mr. Bob Duncan, Department of State Lands, responded to questions from the Committee members. He stated that this bill was mainly an administrative clean-up device. Mr. Duncan and Mr. Schwinden also stated that they had no objection to the amendment which Senator Darrow proposed. The three of them had discussed it at length, and felt that Senator Darrow's amendment adds a legislatively-stated public policy that is highly desirable.

Senator Rosell made a motion that the committee adopt the amendments proposed by the Land Department and Senator Darrow (which appear as Schedule A and Schedule B attached), and that House Bill No. 22 BE CONCURRED IN AS AMENDED. The motion was seconded by Senator Bennett, and carried unanimously.

HOUSE BILL NO. 439: "An act creating the office of Montana Ombudsman." A short discussion of this bill was held among the Committee members.

Senator Story made a motion that House Bill 439 BE NOT CONCURRED IN. The motion was seconded by Senator Devine, and carried.

SENATE BILL NO. 508: "An act relating to airplanes owned or leased by the State of Montana."

Senator Sorenson explained the proposed amendments to this bill, and brought the Committee's attention to a communication he had received from the Governor's office. This letter stated that the Division of Aeronautics was created administratively, and suggested that this bill be amended to make the custodian of all state planes to be placed in the Department of Intergovernmental Relations.

There was some discussion on this bill. Senator Sorenson stated that the concept was a good one, but that after taking out everything in the bill that had been objected to, the meat of the bill was also gone.

Senator Sorenson then made a motion that the proposed amendments (contained in the letter from the Office of the Governor and those contained in Schedule C, both of which are attached) be adopted by the Committee. The motion was seconded by Senator Devine, and carried.

Senator Sorenson then made a motion that the committee recommend Senate Bill 508 DO PASS AS AMENDED. The motion was seconded by Senator Devine, and carried unanimously.

SENATE JOINT RESOLUTION NO. 50: "A joint resolution concerning monetary penalty for late renewal of certified pharmacy license."

Chairman James, as chief sponsor of this Resolution, attempted to explain it to the Committee. He said the purpose of this resolution was to make an example of the board of pharmacists so that other boards will think twice before overstepping their legal bounds.

ROLL CALL

STATE ADMINISTRATION COMMITTEE

SECOND HALF - 43rd LEGISLATIVE SESSION 1974 Date 1/23/74

NAME	PRESENT	ABSENT	EXCUSED
DAVID F. JAMES, Chairman	X		
STANLEY NEES, Vice Ch.	X		
GEORGE BENNETT	X		
GEORGE DARROW	X 8:10 a.m.		
JACK DEVINE	X		
JACK McDONALD	X 9:00 a.m.		
ANTOINETTE ROSELL	X		
C. F. (Smokey) SORENSON	X		
PETE STORY	X		

Each day attach to minutes

Revision of State Land Classification System
Proposed Legislation, Department of State Lands

Article XVII of the 1889 Montana Constitution was the primary basis of the present land classification system which Section 81-302, RCM, 1947, requires to be used in classifying state trust land. Article XVII read in part as follows:

> "Said lands shall be classified by the board of Land Commissioners as follows: First, lands which are valuable only for grazing purposes. Second, those which are principally valuable for the timber that is on them. Third, agricultural lands. Fourth, lands within the limits of any town or city or within three miles of such limits, provided, that any of said lands may be re-classified whenever, by reason of increased facilities for irrigation or otherwise, they shall be subject to different classification."

Article X, Section 11 of the new constitution does not contain specific classification requirements, but simply states that "All public land shall be classified by the board of land commissioners in a manner provided by law." The law still reflects the 1889 classifications.

Under Section 81-302 the state trust lands can only be classified as either grazing, timber, agriculture or urban lands (lands within the limits of any town or city or within three miles of such limits). Actual land use on trust lands, however, include feed lots, farmsteads, parks, country clubs, game ranges, school sites, cabin sites, historic sites and various commercial uses as well as grazing, timber and agriculture. The classification requirement for urban lands overlaps two other classifications in that land officially classified as urban land may often actually be used for grazing or agriculture and leased in accordance with laws and lease regulations established for the administration of grazing and agricultural lands. Some park areas leased by local groups, or the Fish and Game Department, are leased under laws and lease regulations established for lands used for grazing purposes. Some land officially classified as grazing and leased according to its animal unit carrying capacity may have a 20 or 30 thousand dollar suburban house. These few examples point out the inadequacy of the traditional grazing, timber, grazing and urban classifications of state lands.

Officially classified grazing, timber, agriculture and urban lands are limited by law to 10 year leases for all uses except school sites and power sites. Since there are no other classes to which state lands can belong then all uses other than school sites and power sites are limited to 10 year leases. Recently the Town of Phillipsburg wanted to obtain federal funds to construct a city park on state land which the city leased. The U. S. Bureau of Outdoor Recreation requires that a city or town have at least a 25 year lease before federal funds can be granted for extensive development. This regulation is simply

a good business practice since it allows sufficient time for investment amortization. Phillipsburg eventually purchased an easement from the state at full market value, but it took the Town of Phillipsburg two years to raise sufficient funds. The experience of Phillipsburg points out the type of problem which an inflexible classification system can create.

Attached is a proposed revision of the classification requirements of Section 81-103. The changes are summarized below:

Section 1. All of the present classification language has been changed.

Class I: The present classification is illogical since there are few lands that are "valuable only for grazing purposes". There are lands which are "principally valuable for grazing purposes". The change gives added status to grazing use because the concept of "principally valuable" can include the needs of the livestock industry as well as the characteristics of the land.

Class II: The changes in the timber classification reflect the definition of timber lands in Section 81-1401, RCM, 1947.

Class III: The agricultural classification language has been made consistent with the language of other classifications.

Class IV: Class 4 land is presently what is known as urban land. The classification was required in the 1889 constitution. Since the classification is directed toward non-agricultural uses it seems appropriate to simply expand the classification to include other special land uses.

Section 2: With the advent of sprinkler irrigation it has become virtually impossible for the department to adequately segregate irrigable from non-irrigable lands.

Section 3: Other state land laws make no use of this urban class subdivision.

Section 4: The present law requires each 40 acre tract to be classified. The proposed change allows more flexibility to allow the classification to reflect the actual mix of land uses.

Section 5: Section 5 has been changed so that the department is required to lease as well as sell state land under the proper classification.

SCHEDULE A

House BILL NO. 22

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 81-302, R.C.M., 1947, TO PROVIDE FOR THE CLASSIFICATION or reclassification OF STATE LANDS, ~~AND PROVIDING AN EFFECTIVE DATE.~~"

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. Section 81-302, R.C.M., 1947, is amended to read as follows:

"81-302. Classification - reclassification - records.

(1) The state lands are classified as follows:

(a) Class 1. ~~Grazing lands, being all those lands which are valuable only for grazing purposes.~~ Lands which are principally valuable for grazing purposes.

(b) Class 2. ~~Timber lands, being all those lands which are principally valuable for the timber that is on them~~ Lands which are principally valuable for the timber that is on them, or for the growing of timber or for watershed protection.

(c) Class 3. ~~Agricultural lands~~ Lands which are principally valuable for the production of crops.

(d) Class 4. ~~Lands within the limits of any town or city or within three (3) miles of these limits~~ Lands which are principally valuable for uses other than grazing, crop production, timber production or watershed protection.

~~(2) The third class, agricultural lands, is subdivided into two (2) classes as follows:~~

~~(a) Irrigable lands.~~

~~(b) Non-irrigable lands.~~

~~(3)--The-fourth-class-is-subdivided-as-follows:~~

~~(a)--Lands-within-the-limits-of-any-town-or-city.~~

~~(b)--Lands-not-within-such-limits-but-within-three-(3)-miles-thereof.~~

~~(4)~~ (2) The classification or reclassification shall be so made as to place ~~each-forty-(40)-acre-tract-or-lot-in-the-class-to-which-it-properly-belongs.~~ state land in the class which best accomplishes the powers and duties of the state board of land commissioners as specified in Section 81-103. Insert Schedule 6 as a new paragraph.

~~(5)~~ (3) ~~If-lands-formerly-non-irrigable-become-irrigable,-or-if-new-towns-or-cities-are-located-and-platted,or-in-any-other-case-when-the-board-considers-it-necessary,-the-lands-affected-shall-be-reclassified-so-that-no-state-land-will-be-sold-under-a-different-classification-from-that-to-which-it-actually-belongs.~~ It is the duty of the Department to classify or reclassify state lands so that no state land will be sold, leased or used under a different classification from that to which it actually belongs.

~~(6)~~ (4) All field books,plats, maps, and records of the Department shall show the class to which each tract therein belongs, and whether it belongs to the public schools of the state or to a state institution of other entity according to the grant or instrument by which title to the land has passed to the state, they shall also show whether or not the coal or other minerals in the land are reserved by the United States; and shall contain any other information the department considers necessary."

~~Section 2. This act shall be effective upon passage and approval.~~

Schedule B

When state lands are classified in accordance with these duties and responsibilities special attention shall be paid to the capability of the land to support an actual or proposed land use authorized by each classification. A capability inventory shall be made prior to changing the classification of state lands. Such inventory shall include, when appropriate to the classification, information on soils capability, vegetation, wildlife use, mineral characteristics, public use, aesthetic values, cultural values, surrounding land use and any other resource, zoning or planning information which is related to the classification. Should a parcel of state land in one class have other multiple use or resource values which are of such significance that they do not warrant classification for the value, the land shall, nevertheless, be managed in so far as is possible to maintain or enhance these multiple use values.

within six (6) days. *He may request additional time to complete a note, which extension must be submitted to the presiding officer or committee requesting the note for approval."*

Approved February 5, 1974

CHAPTER NO. 7

AN ACT REQUIRING EVERY STATUTE TO BEGIN WITH AN ENACTING CLAUSE AND PRESCRIBING THE FORM OF THAT CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. **Enacting clause, form required.** The enacting clause of every law shall be as follows: "Be it enacted by the Legislature of the State of Montana:".

Section 2 This act is effective on its passage and approval.

Approved February 5, 1974

CHAPTER NO. 8

AN ACT TO AMEND SECTION 81-302, R.C.M. 1947, TO PROVIDE FOR THE CLASSIFICATION AND RECLASSIFICATION OF STATE LANDS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 81-302, R.C.M. 1947, is amended to read as follows:

"81-302. **Classification — reclassification — records.** *(1) The state lands are classified as follows:*

(a) Class 1. Lands which are principally valuable for grazing purposes.

(b) Class 2. Lands which are principally valuable for the timber that is on them, or for the growing of timber or for watershed protection.

(c) Class 3. Lands which are principally valuable for the production of crops.

(d) Class 4. Lands which are principally valuable for uses other than grazing, crop production, timber production or watershed protection.

(2) The classification or reclassification shall be so made as to place state land in the class which best accomplishes the powers and duties of the state board of land commissioners as specified in section 81-103.

When state lands are classified or reclassified in accordance with these duties and responsibilities, special attention shall be paid to the capability of the land to support an actual or proposed land use authorized by each classification. A capability inventory shall be made prior to changing the classification of state lands. Such inventory shall include, when appropriate to the classification, information on soils capability, vegetation, wildlife use, mineral characteristics, public use, aesthetic values, cultural values, surrounding land use and any other resource, zoning or planning information which is related to the classification. Should a parcel of state land in one class have other multiple use or resource values which are of such significance that they do not warrant classification for the value, the land shall, nevertheless, be managed insofar as is possible to maintain or enhance these multiple-use values.

(3) It is the duty of the department to classify or reclassify state lands so that no state land will be sold, leased or used under a different classification from that to which it actually belongs.

(4) All field books, plats, maps, and records of the department shall show the class to which each tract therein belongs, and whether it belongs to the public schools of the state or to a state institution or other entity according to the grant or instrument by which title to the land has passed to the state; they shall also show whether or not the coal or other minerals in the land are reserved by the United States; and shall contain any other information the department considers necessary."

Approved February 7, 1974

CHAPTER NO. 9

AN ACT TO REPEAL CHAPTER 1 OF THE LAWS OF 1973 RELATING TO LEGISLATIVE EMPLOYEE DUTIES AND SALARIES; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Chapter 1 of the laws of 1973, is repealed.

Section 2. This act is effective on its passage and approval.

Approved February 7, 1974

CHAPTER NO. 10

AN ACT REMOVING THE REQUIREMENT THAT A TAXIDERMIST RECORD THE HUNTER'S LICENSE NUMBER AS SPECIMEN OF GAME IS MOUNTED; AND AMENDING SECTION 26-907, R.C.M. 1947.